Calendar No. 268

102D CONGRESS
1st Session

SENATE

REPORT
102-184

INCREASING THE AUTHORIZED ACREAGE LIMIT FOR THE ASSATEAGUE ISLAND NATIONAL SEASHORE ON THE MARYLAND MAINLAND, AND FOR OTHER PURPOSES

OCTOBER 8 (legislative day, SEPTEMBER 19), 1991.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1254]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1254) to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. INCREASE IN ACREAGE LIMITATION.

Section 2 of the Act entitled "An Act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes", Public Law 89-195, as amended (16 U.S.C. 459f-1), is amended—

(a) in subsections (a) and (b) by striking "sixteen acres" or "ten acres" each place that they appear and inserting in lieu thereof, "112 acres"; and

(b) in subsection (a) by striking "Maryland," through the end of the sentence and inserting in lieu thereof, "Maryland.".

PURPOSE OF THE MEASURE

The purpose of S. 1254, as ordered reported, is to amend the enabling Act for the Assateague Island National Seashore to increase the acreage limitation on land acquisition on the Maryland mainland from 16 acres to 112 acres.

S313-29

Background and Need

Assateague Island National Seashore was established as a unit of the National Park System in 1965. The seashore encompasses all of Assateague Island and a small site on the Maryland mainland. The island provides important habitat for a variety of plants and wildlife, including Loggerhead turtles, the endangered Piping Plover, and the wild ponies of Assateague.

Adjacent to the Maryland mainland portion of the park is a 320-acre tract of private property which has been proposed for sale and development. The property includes approximately 1 mile of frontage along Sinepuxent Bay, with a commanding view of the bay and Assateague Island.

The Assateague Island National Seashore enabling legislation limited Federal land acquisition on the Maryland mainland to no more than 10 acres. Last year Congress raised the limitation to 16 acres to allow for a donation of 6 acres from the State of Maryland. S. 1254 would increase the acreage limitation to 112 acres, to provide for acquisition of 96 acres of the 320-acre tract.

Legislative History

S. 1254 was introduced by Senators Sarbanes and Mikulski on June 11, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on the bill on July 25, 1991.

At the business meeting on September 25, 1991, the Committee on Energy and Natural Resources ordered S. 1254, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Committee on Energy and Natural Resources, in open business session on September 25, 1991, by a unanimous vote of a quorum present, recommends that the Senate pass S. 1254, if amended as described herein.

The rollcall vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers*	
Mr. Ford*	
Mr. Bradley	
Mr. Bingaman*	
Mr. Wirth	
Mr. Conrad	
Mr. Akaka	
Mr. Fowler*	
Mr. Shelby*	
Mr. Wellstone	
Mr. Wallop	
Mr. Hatfield	
Mr. Domenici	
Mr. Murkowski*	
Mr. Nickles*	
Mr. Burns	

Mr. Craig
Mr. Seymour
Mr. Garn*

* Indicates voted by proxy.

Committee Amendment

During the consideration of S. 1254, the Committee adopted an amendment in the nature of a substitute. The amendment makes no substantive changes, but makes a number of clarifying modifications. The amendment is described in detail in the summary of the bill, below.

Summary of S. 1254

S. 1254 amends the Assateague Island National Seashore enabling legislation to authorize the Secretary of the Interior to acquire up to 112 acres for the seashore on the Maryland mainland. Currently, the park is limited to acquiring no more than 16 acres on the mainland. The bill also removes a requirement that the mainland portion of the park be solely for administrative purposes.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 7, 1991.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1254, a bill to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources on September 25, 1991. The total costs of this legislation cannot be estimated precisely until the completion of formal property appraisals and resource development plans. Based on available information and assuming appropriation of the necessary sums, CBO estimates that land acquisition costs would be at least $2 million and possibly much greater. No information exists to permit even rough estimates of costs to restore, interpret and operate the acquired property. S. 1254 would not affect direct spending or receipts and thus would not involve any pay-as-you-go scoring under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

S. 1254 would amend existing use and acreage limitations on certain lands acquired for the Assateague Island National Seashore. Specifically, the bill would authorize the Secretary of the Interior to acquire an additional 96 acres of property on the Maryland mainland. Also, an existing provision of law restricting the use of mainland property to administrative purposes would be eliminated.

The land authorized to be acquired by S. 1254 is a 96-acre segment of a 320-acre historic farm. Located on Sinepuxent Bay, the site now faces possible development for commercial or residential purposes. Until the present market value of the property has been determined by formal appraisal, it is not possible to provide any definitive estimate of federal acquisition costs. Based on the limited information available, CBO expects that such costs would be at least $2 million, assuming that sufficient amounts are appropriated for this purpose and that the landowners are willing to sell. If the owners are unwilling, the NPS would probably condemn the land. If so, acquisition costs would be determined by the courts, and probably would be considerably greater.

Post-acquisition development costs would depend on the findings of NPS planning studies as well as on the condition of the historic structures acquired. CBO expects that most of the 96 acres would be preserved as open space, while any historic restoration and interpretation of the farm structures would be conducted through a cooperative agreement with an appropriate organization. If, on the other hand, the NPS must assume responsibility for historic restoration and interpretation, federal costs could be significant.

Enactment of this legislation would have no impact on the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1254. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1254, as ordered reported.

EXECUTIVE COMMUNICATIONS

On July 12, 1991, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 1254. These reports had not been received at the time the report on S. 1254 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, I appreciate the opportunity to provide your Subcommittee with the views of the Department of the Interior on this bill.

While we believe that S. 1254 has merit, we recommend that the Committee withhold action on the bill until we are able to determine the cost of the land that would be authorized for acquisition.

The Act of September 21, 1965, authorized establishment of the 37-mile-long Assateague Island and adjacent marshes and water areas as the Assateague Island National Seashore. The seashore consists of approximately 16,000 acres of land and 22,000 acres of water area. An unspoiled example of a barrier island system, the seashore is host to 2 million visitors a year.

The 1965 Act authorized the acquisition of properties on the island and not to exceed 10 acres of land on the mainland in Worcester County, Maryland, for an administrative site. A small visitor center is located on the mainland along with the administrative offices. The administrative site was increased from an authorized 10 acres to 16 acres by an amendment contained in the FY 1991 Interior and Related Agencies Appropriation Act (Public Law 101-512) approved November 5, 1990. S. 1254 would increase the authorized mainland administrative site from 16 acres to 112 acres, an increase of 96 acres.

In accordance with the 1982 General Management Plan for the Seashore, planning is underway to upgrade the administrative facilities on the mainland. The current headquarters building was originally constructed as a maintenance garage. This building will be reconverted to a garage and shop, and a new headquarters building will be constructed with space for administrative offices and a visitor center. The visitor center eventually will be a focal point for barrier island interpretation and study along the entire eastern seaboard. The new visitor center will be located on the 6-acre addition that was authorized last year, and which is being donated to the National Park Service by the State of Maryland. Seashore staff estimate that the new interpretive facility will attract 250,000 people a year.

Lands immediately surrounding the mainland site have thus far remained in farm use because the long-term owners have preferred it that way. But other private property nearby has been commercially developed or subdivided for intensive residential use. Now it appears that the 320-acre farm immediately south of the visitor center and headquarters area may also be sold and developed. If that were to occur, the development would adversely affect the uncommonly beautiful "gateway" to Assateague, and the ability of the Park Service to interpret the seashore for visitors to the new barrier islands visitor center. It would also preclude our ability to accommodate visitor transpor-

tation operations that no doubt will be needed at some point in the future. Accordingly, we believe the additional acquisition authorized by S. 1254 would have great merit.

Mr. Chairman, we do not see a need to acquire the entire 320-acre farm. Only 96 acres immediately adjacent to and south of the visitor center is necessary to protect the integrity of the view to the island and for future visitor transportation operations. It is this 96 acres that S. 1254 would authorize to be acquired. If S. 1254 were to become law, we would amend the land protection plan to determine the minimum type or level of interest that would need to be acquired to accomplish our objectives. We expect that interest could be acquired on a willing-seller basis.

We are proceeding with the process of obtaining a cost estimate, but a figure is not yet available. We believe we can provide the Administration and the Committee with an estimate in about 60 days. Without a cost estimate, Mr. Chairman, we would not have complete information on which to base a recommendation of S. 1254. We, therefore, recommend that the Committee withhold action on the bill at this time.

Should the Committee proceed with the bill after we provide the cost estimate, any funding for future acquisition authorized by the bill would be based on the Administration's land acquisition criteria. Furthermore, if the Committee proceeds with the bill, we recommend that subsection (b) be deleted. It makes a technical correction to the citation contained in the FY 1991 Interior Appropriations Act. We believe the Appropriations Act provision is legally sufficient to have amended the 1965 Assateague mainland authorization from 10 to 16 acres. If the technical correction is deemed necessary, we recommend that it precede the first-degree amendment in subsection (a).

This concludes my prepared statement. I would be pleased to respond to your questions.

Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1254, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Assateague Island National Seashore in the States of Maryland and Virginia

[16 U.S.C. 459j–1]

* * * * * * *

Sec. 2. (a) Within the boundaries of the seashore, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands, waters, and other property, or any inter-

est therein, by donation, purchase with donated or appropriated funds, exchange, or in such other method as he may find to be in the public interest. The Secretary is authorized to acquire, by any of the above methods, not to exceed [sixteen acres] *112 acres* of land or interests therein on the mainland in Worcester County, Maryland, for an administrative site. In the case of acquisition by negotiated purchase, the property owners shall be paid the fair market value by the Secretary. Any property or interests therein owned by the States of Maryland or Virginia shall be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any federal property located within the boundaries of the seashore and not more than [sixteen acres] *112 acres* of Federal property on the mainland in Worcester County, Maryland, may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for purposes of the seashore.

(b) EXCHANGE OF PROPERTY; CASH EQUALIZATION PAYMENTS.—When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and to not more than [sixteen acres] *112 acres* of non-Federal property on the mainland in Worcester County, [Maryland, and covey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which he classifies as suitable for exchange or other disposal, and which is located in Maryland or Virginia. The properties so exchanged shall be approximately equal in fair market value, but the Secretary may accept cash from or pay cash to the grantor in order to equalize the values of the properties exchanged.] *Maryland.*

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